

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JO SPAINHOWARD,

Plaintiff,

v.

**GREEN TREE FINANCE, LLC.,
et al.,**

Defendants.

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Case No.: 1:05-cv-517-F

MOTION FOR LEAVE TO FILE OUT OF TIME

Comes Now the undersigned counsel for Green Tree Servicing LLC and hereby requests leave of Court to file the attached Status Report (**Exhibit A**) out of time and as grounds therefore, states as follows:

1. On July 7, 2005, the Court issued a Memorandum Opinion and Order (Doc#11) requiring the parties to file a status report on the first Tuesday of each month. At the time of entry of this Order, the undersigned counsel calendared these dates for the upcoming three (3) months, but did not calendar this date for December in the belief that the case would be arbitrated and/or settled by that date. Nevertheless, it has taken the parties longer than anticipated to coordinate and schedule the arbitration proceeding due to, among others, the negotiation and execution of an agreement to arbitrate required by the arbitrator that outlines the rules and procedures that will govern the arbitration process.

2. The undersigned counsel in no manner intended to avoid, ignore or not comply with this Honorable Court's order. Indeed, as shown by the previously filed status reports,

the undersigned counsel has timely filed status reports during all previous months.

3. The undersigned counsel requests that he be permitted to file the attached Status Report out of time.

Respectfully submitted this the 16th day of December, 2005.

/s/ Austin Huffaker
R. AUSTIN HUFFAKER, JR. (ASB-3422-F55R)
Attorney for Defendant

OF COUNSEL:
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& GARRETT, P.A.
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CERTIFICATE OF SERVICE

I certify that on the 16th day of December, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

William J. Moore, Esq.
Stephanie Willis, Esq.
P.O. Box 310985
Enterprise, AL 36331

/s/ Austin Huffaker
OF COUNSEL

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[EXHIBIT A]

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STATUS REPORT

Comes Now the undersigned counsel for Green Tree Servicing LLC and hereby provides this Status Report as required by the Court's Order of July 7, 2005:

1. The parties are in the process of determining dates to arbitrate the case. Plaintiff's counsel has requested that the case be arbitrated prior to March 1, 2006 and counsel for the Defendant has requested that limited discovery be exchanged prior to the arbitration for purposes of promoting efficiency in the arbitral proceeding. Currently, the parties are waiting to hear back from the arbitrator as to several dates in which to conduct the arbitration. The parties have also engaged in preliminary settlement discussions. Counsel for Defendant anticipates this case will be arbitrated sometime this Spring.

Respectfully submitted this the 16th day of December, 2005.

/s/ Austin Huffaker
R. AUSTIN HUFFAKER, JR. (ASB-3422-F55R)
Attorney for Defendant

OF COUNSEL:
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& GARRETT, P.A.
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/s/ Austin Huffaker
OF COUNSEL